

Internal Revenue Service
Regional Counsel

Department of the Treasury

Date:

JUN 30 1992

Key District:

Year(s):

Person to Contact:

Contact Telephone Number:

Dear Sir/Madam:


We considered your appeal of the adverse action proposed by your key District Director. The paragraph(s) checked below indicate(s) our decision.

☒ Your exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code is:

- ☐ confirmed.
- ☐ modified. A new determination letter is enclosed.
- ☒ denied ~~exemption~~. You are required to file Federal income tax returns on Form 1120 for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for extension of time is granted.
- ☐ You are not a private foundation because you are described in Code section(s) _____.
- ☐ You are an operating foundation as described in code section 4942(j)(3).
- ☐ You have no liability for excise taxes under IRC _____ for the above years.
- ☐ Your liability for excise taxes under IRC _____ for the above year(s) was properly reported on your return(s).
- ☐ There is no change to your unrelated business income tax liability as reported for the above years.
- ☐ Your Form(s) 990-T for the above years are accepted as filed.
- ☒ Because you advertise your facility and activities to the general public, you do not qualify to be exempt under Section 501(c)(7).

You may direct questions about the decision to the appeals officer whose name and telephone number are shown above.

Associate Chief, Appeals

cc: 
Mid-Atlantic Region Appeals Office
600 Arch Street, Rm. 4454, Philadelphia, PA 19106

Letter 1370(R0) (1-80)

[REDACTED]
[REDACTED]
[REDACTED]
JUN 2 1990

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted indicates you were incorporated under the nonpro-
fit corporation law of [REDACTED] on [REDACTED] and
amended [REDACTED].

Your purposes, as amended, are to promote the education, understanding and appreciation of dog obedience, to conduct dog obedience training classes and seminars for dog owners. The corporation is organized exclusively for educational, charitable and/or social purposes as defined by section 501 of the Internal Revenue Code.

The activities of the organization consist of conducting dog obedience classes by volunteer instructors. Primarily the focus has been on pet level training. However, as the people and dogs become more advanced, the competitive portion of dog sports has become more a part of the training focus. Socializing is a part of the organization in that past attendees and family members also come to observe and enjoy the common interest.

The organization has no members nor provisions for members. Those who are considered members, when speaking loosely, are those who attend regularly and assist with club functions.

Your sources of income are registration fees. Funds are used for costs of equipment, meetings, utilities, advertising supplies, miscellaneous operating costs and charitable donations.

Section 501(c)(7) of the Internal Revenue Code exempts from federal income tax clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inure to the benefit of any private shareholder.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	5/31/90	5-31-90	6/1/90				

Section 1.501(c)(7)-1 of the Income Tax Regulations provides as follows:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earning inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.
- (b) A club which engaged in business, such as making its social and recreational facilities available to the general public is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from the use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 58-589, 1959-2, 267, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons, other than members and their bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are no more than enough to pay their share of the expenses.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other bona fide members and their guests, or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from entry fees paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was *not* operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

Further, in liberalizing the amount of non-member income that could be received by social clubs, Congressional Committee Reports state that the amendment (Public Law 94-568) was not intended to permit social clubs to receive, even within the allowable guidelines for outside income, income from the active conduct of businesses not traditionally carried on by social clubs. (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 596.)

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, page 240, holds that a nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code.

Revenue Ruling 71-421, published in Cumulative Bulletin 1971-2, page 229 holds that a dog club exempt under section 501(c)(7) of the Code, formed to promote the ownership and training of purebred dogs and conducting obedience training classes, may not be reclassified as an educational organization exempt under section 501(c)(3). Since the organization is organized and operated primarily for the benefit, pleasure and recreation of its members it continues to qualify for exemption under section 501(c)(7) of the Code.

[REDACTED]

The activities of this club involved members of a national club which is limited to the owners of purebred dogs registered with that club. The club provides facilities and trainers for the conduct of obedience classes. Classes are conducted for members and their dogs in sporting and show events. Trial competitions are held and judges evaluate the performance of the dogs. An annual dog show is conducted by the organization under the auspices of the national club.

Income of the organization is derived from membership dues and fees.

Revenue Ruling 73-520, Cumulative Bulletin 1973-2, page 180, holds that a club that promotes and protects a particular breed of dog not raised or used by members as farm animals is not exempt as an agricultural organization under section 501(c)(5) of the Code, but may qualify as a social club under section 501(c)(7).

For section 501(c)(7), this Revenue Ruling referred the reader to Revenue Ruling 71-421 noted above.

Revenue Procedure 71-17, 1971-1 C.B. p. 683, establishes recordkeeping requirements for social clubs, to separate non-member income. If these requirements are met, certain presumptions as to member vs. non-member income may be made, as outlined in the Revenue Procedure.

Unlike the organization cited in Revenue Ruling 71-421, your organization does not have a membership. Your organization advertises to the general public by means of the newspaper and flyers welcoming the public. Therefore, your funds are likewise derived from the attendance at your sessions by the general public and their dogs.

On the basis of the evidence presented, the requirements for exemption as defined in the Code and Income Tax Regulations, and in the interpretation of the Code and Regulations cited in the Revenue Rulings cited above, we hold that you do not qualify for exemption under section 501(c)(7) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of the Internal Revenue Code section 501(c).

By our letter dated [REDACTED], your organization was denied recognition of exemption under section 501(c)(3) of the Code.

Until you have established an exempt status you are not relieved of the requirements for filing federal income tax returns.

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892

cc: [REDACTED]

CERTIFIED MAIL

JUL 19 1989

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the non profit corporation laws of [REDACTED] on [REDACTED]. Your purposes consist of education, understanding and appreciation of dog obedience. To conduct dog obedience training classes and seminars for dog owners.

Your activities consist of conducting dog obedience classes which are open to the public. Dog training seminars are also conducted and deal with the technical aspects of training or advanced training techniques. A future activity the organization may conduct is to conduct an obedience match show for dogs to enter without seeking points for [REDACTED] championship. You are not a membership organization.

Your income is derived from registration and seminar fees. Your expenditures consist of donations to other organizations and for payment of advertising, seminars, rent and other miscellaneous operational costs.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations which are organized and operated exclusively for religious, charitable, educational purposes. "no part of the earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (d)), and which does not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(b)(1)(iii) of the Income Tax Regulations indicates that "an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3)."

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]				
Date	7-17-89	7-18-89	7-19-89			

Department of the Treasury/Internal Revenue Service

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[REDACTED]

In Ann Arbor Dog Training Club, Inc. v. Commissioner of Internal Revenue, Docket No. 7514-798, filed April 22, 1980, it was held that the organization failed to prove that it operated primarily for the education of individuals, and that the training of dogs was an incidental purpose of its activities. Therefore, petitioner was not exempt from Federal taxation under sections 501(a) and 501(c)(3) of the Internal Revenue Code.

The case is similar to your application in that both you and the Ann Arbor Club were formed for the purpose of promoting education, understanding and appreciation of dog obedience, to conduct dog obedience training classes and seminars for dog owners. As in the Ann Arbor Club, we find that the primary purpose and activities of your organization is the operation of an organization for teaching of obedience to dogs not education of individuals.

In Revenue Ruling 71-421, Cumulative Bulletin 1971-2, page 229 a dog club exempt under section 501(c)(3) of the Code, formed to promote the ownership and training of purebred dogs and conducting obedience training classes for the dogs of members was not held to qualify for recognition as an educational organization exempt under section 501(c)(3) of the Internal Revenue Code.

In this ruling it was stressed that section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations defines the term "educational" as relating to (a) the instruction or training of the individual for the purpose of improving or developing his capabilities, or (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

While the owner receives some instruction in how to give commands to his dog, it is the dog that is the primary object of the training. Therefore, the organization's training program for dogs is not within the meaning of educational as defined in the regulations.

Since the primary purpose of your organization is the training of dogs and not individuals, it is held that this is not an educational purpose within section 501(c)(3) of the Code. Therefore, the organizational test is not met.

The organization has failed to carry the burden of proof to show that noneducational purposes are insignificant. One single noneducational activity will destroy an organization's exemption if it is substantial. The training of dogs to your organization is a primary activity. Consequently, the operational test is failed.

Based on the information contained above, it is held that your organization is not entitled to exemption under 501(c)(3) of the Code as you have not met the organizational and operational tests under section 501(c)(3).

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[REDACTED]

In accordance with this determination, you are required to file income tax returns on Form 1120 for all years of your existence. The returns should be filed with this office within 60 days from the date of this letter, unless a request for an extension of time is granted. We will not delay processing of income tax returns and assessment of any taxes due because of your bringing suit for declaratory judgment under Code section 7428. File returns for later tax years with the appropriate service center indicated in the instructions for the returns.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become final and a copy of this letter will be sent to the appropriate State officials in accordance with section 6104(c) of the Internal Revenue Code. Further, if you do not appeal this determination within the time provided it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosure: Publication 892

cc: State Attorney General - [REDACTED]

cc: [REDACTED]